IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 22202 of 2007(R)

PETITIONER:

M.JAMALUDEEN, (ADE, KSRTC, REGIONAL WORKSHOP, KOZHIKODE, RTD. ON 31.5.2005), MOORSHINGAL HOUSE, KOLMANNA, HAJIYARPALLI P.O., MALAPPURAM.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENTS:

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1. KERALA STATE ROAD TRANSPORT CORPORATION, REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.

2. THE WORKS MANAGER, REGIONAL WORKSHOP, KSRTC, KOZHIKODE.

3. KERALA STATE TRANSPORT WORKERS' CO-OPERATIVE SOCIETY LTD. T 133, REPRESENTED BY ITS SECRETARY, THAMPANOOR, THIRUVANANTHAPURAM.

R1 & R2 BY ADV.SRI.JOHNSON P. JOHN, SC, KSRTC.
R3 BY ADV. SRI.N.UNNIKRISHNAN,SC KSTW CO.OP SOCIETY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/11/2007 ALONG WITH WP(C) NO. 27214 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.22202 & 27214 OF 2007

Dated this the 13th day of November, 2007

JUDGMENT

Petitioners in these cases were employees of the Kerala State Road Transport Corporation. They were members of the Kerala State Transport Workers Co-operative Society Ltd. No.T.133 and were availed different commercial facilities from that society. They had executed agreements falling within Section 37 of the Kerala Co-operative Societies Act. The employer KSRTC, therefore, made deductions from the salaries of the petitioners in terms of that provision. However, the amounts so deducted were not paid into the account of the society then and there, but were kept by the KSRTC with itself. This resulted in demand for interest mounting on the petitioners. The petitioners' contention that all amounts have been deducted from their salaries at the appropriate time is vouchsafed by the counter affidavits placed on record by the society in both the cases, which among other things, disclose the amounts that will be due from the KSRTC when it is asked to stand in the shoes of

the debtor for having made recovery in terms of the K.C.S. Act. The liability of the KSRTC to satisfy all such amounts is covered by the judgment of the Division Bench in W.A.No.2060/06 and the following R.P.No.119/07, inter alia laying down that in any case, whatever amount is recovered and retained by the KSRTC, it is bound to remit it to the society with interest at the same rate at which it is charged by the society on the debtor member. Directions were also issued by the Division Bench authorising revenue recovery under Section 71 of the Revenue Recovery Act to ensure payment by the KSRTC.

In the result, these writ petitions are allowed, quashing all recoveries against the petitioners and by directing that the respective parties will stand guided by Ext.R3(A) in W.P(C). 22202/07 and Ext.R2(A) in W.P(C).27214/07, disclosing the amounts that may be due to the different parties. If the KSRTC has any objection to the account statement placed on record by the society, it shall disburse the amounts in terms of those statement and also take up the matter of any disputed amounts

with the Co-operative Tribunal. The parties will be at liberty to resolve any further dispute by way of arbitration in terms of the KCS Act. The payments as directed above shall be made within a period of one month from the date of receipt of a copy of this judgment. The KSRTC will also release to the petitioners excess amount, if any, with reference to those statements, within the aforesaid period.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.